

REMARKS**Rejections under 35 U.S.C. § 112, First Paragraph**

Claims 9 and 10 stand rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the enablement requirement. These rejections are respectfully traversed for at least the following reasons. Applicant respectfully submits that each of claims 9 and 10 of the instant application describes a program that is carried out by a computer in a manner that is fully described in the specification and drawings of the instant application in such a way as to enable one having skill in the relevant art to make and/or use the invention described in the claims. In particular, Applicant respectfully submits that one having skill in the subject art would surely be able to make and/or use the inventions described in claims 9 and 10 by referring, for example, to Fig. 11 which is a flow chart explaining a frequency characteristic setting, and the portions relating to Fig. 11 in the specification. See, for example, page 26, line 11- page 29, line 33 of the instant application's specification. Accordingly, withdrawal of the rejections under 35 U.S.C. § 112, first paragraph is respectfully requested. To the extent that such a rejection might be maintained, Examiner Faulk is respectfully requested to provide specific details regarding why she believes that one having ordinary skill in this subject art would not be able to make and/or use the invention described in claims 9 and 10 in light of the specific portions of the disclosure of the instant application referred to in the foregoing discussion.

Rejections under 35 U.S.C. §§ 102(b) and 103(a)

Claims 1-3, 8, 11 and 12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Velmer (U.S. Patent No. 5,515,446) (hereinafter "Velmer"). Claims 4-6 stand rejected under 35

U.S.C. § 103(a) as being unpatentable over Velmer in view of Ouchi et al. (U.S. Patent No. 6,072,879) (hereinafter "Ouchi"). Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Velmer in view of Sasaki (U.S. Patent No. 6,996,240) (hereinafter "Sasaki"). Claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Velmer in view of Berkovitz et al. (U.S. Patent No. 4,458,362) (hereinafter "Berkovitz"). These rejections are respectfully traversed for at least the following reasons.

Applicant respectfully submits that each of independent claims 1 and 11 include features of to divide an inputted signal into a signal component falling into a one fixed-level band and one or more signal components falling into one or more variable-level bands, to estimate a relative level of the signal component in each variable-level band on the basis of a level of the signal component in the fixed-level band in the target frequency characteristic, and to adjust the level of the signal component of each variable-level band of the signal based on the estimated relative level of the signal component in each variable-level band.

On the other hand, Applicant respectfully submits that the applied Velmer reference discloses an electronic audio accurate reproduction system and method in which an inputted signal is supplied to eight limiters 62 to 76 through eight filters 46 to 60, respectively. Applicant respectfully submits that signals from the limiters 62 to 76 are supplied to limiter indicators 78 to 92, respectively, and supplied to an active combining network.

As Applicant compares claims 1 and 11 of the instant application with the applied Velmer reference, Applicant respectfully submits that while Velmer discloses that an inputted signal is divided into eight bands by eight band-pass filters 46 to 60, Applicant respectfully

submits that Velmer does not disclose, or even suggest, the above-discussed features of independent claims 1 and 11, for example.

In other words, independent claims 1 and 11 of the instant application include features of to divide an inputted signal into a signal component falling into a one fixed-level band and one or more signal components falling into one or more variable-level bands to estimate a relative level of the signal component in each variable-level band on the basis of a level of the signal component in the fixed-level band in the target frequency characteristic; and to adjust the level of the signal component of each variable-level band of the signal based on the estimated relative level of the signal component in each variable-level band. Applicant respectfully submits that at least such features of independent claims 1 and 11 of the instant application are not disclosed, or even suggested, in Velmer. Accordingly, the combinations of features described in independent claims 1 and 11 of the instant application are different from the disclosure of Velmer and are thus not anticipated by Velmer.

The Office Action asserts that all of the features of independent claims 3 and 12 are anticipated by Velmer. Such an assertion is respectfully traversed for at least the following reasons.

Applicant respectfully submits that claims 3 and 12 of the instant application include features of to divide an audio signal inputted from outside the apparatus into a signal component falling into one fixed-level band and one or more signal components falling into one or more variable-level bands, and to adjust levels of the signal components in only the variable-level bands of the audio signal, and wherein the adjustment device is configured to assign, to the

fixed-level band, a predetermined frequency band in which changes in sound pressure are sensitive to human audibility and to divide the inputted audio signal.

Applicant respectfully submits that at least such features of independent claims 3 and 12 of the instant application are not disclosed, or even suggested, in Velmer. Accordingly, the combinations of features described in independent claims 3 and 12 of the instant application are different from the disclosure of Velmer and are thus not anticipated by Velmer.

With regard to the rejections of independent claims 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Velmer and Berkovitz, Applicant respectfully submits that these claims include similar features as discussed above with regard to claims 1, 3, 11 and 12. Accordingly, similar arguments as discussed above with regard to claims 1, 3, 11 and 12 also apply to claims 9 and 10. In addition, the applied secondary reference to Berkovitz fails to cure the above-discussed deficiencies of Velmer.

Accordingly, Applicant respectfully asserts that the rejections under 35 U.S.C. §§ 102(e) and 103(a) should be withdrawn because Velmer does not teach or suggest each feature of independent claims 1, 3, 9, 10, 11 and 12. As pointed out in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)." Similarly, MPEP § 2143.03 instructs that "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974)."

Furthermore, Applicants respectfully assert that the dependent claims are allowable at

least because of their dependence from independent claim 1, and the reasons set forth above.

Moreover, the additionally applied reference to Ouchi, with respect to claims 4-6, does not cure the deficiencies discussed above with regard to Velmer. Also, the additionally applied reference to Sasaki, with respect to claim 7, does not cure the deficiencies discussed above with regard to Velmer.

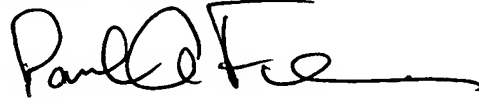
CONCLUSION

In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and respectfully request reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0573. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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